

**INDIANA PUBLIC DEFENDER COMMISSION MEETING
MINUTES**

December 11, 2003

The meeting commenced at approximately 3:06 p.m. Present were: Chairman Norman Lefstein, Commission members Bettye Lou Jerrel, Sen. Timothy Lanane, Rep. Ralph Foley, Susan Carpenter, Rebecca McClure, and Sen. Richard Bray. Also in attendance were Larry Landis of the Indiana Public Defender Council, and Neal Bowling, attorney for the Commission.

1. Minutes from the September 4, 2003, meeting were reviewed and recommended for approval.
2. Next, the issue of Martin County's late claims was addressed. Commissioner Carpenter noted that the Commission had established a clear and unambiguous policy of requiring counties to submit quarterly claims for reimbursement during the next consecutive quarter, and for denying claims which were not submitted in a timely fashion. Given this precedent, the Commission resolved that Martin County's late claims should be denied.
3. The Commission resolved that the current funding statutes governing the timing of distribution of funds into the Public Defense Fund should be redrafted. Currently, the Fund receives cash infusions four times each year: June 30, July 1, December 31, and January 1. The Commission resolved that the 24 hours separating the June and July transfers, as well as the December and January transfers, created an artificial distinction, and that the two payments so close together in time should be treated as one payment for purposes of I.C. 33-9-14-6.
4. The Commission approved reimbursement in capital cases in the following amounts:

December 11, 2003		
COUNTY	DEFENDANT	TOTAL
Allen	Azania	\$36,426.29
Delaware	Verner	\$9,255.13
Lake	Britt	\$5,726.00
Marion	Bomani	\$1,035.50
	Covington	\$5,800.65
	Dye	\$14,375.50
	Ritchie	\$761.93
Morgan	Pruitt	\$62,221.51
Spencer	Ward	\$3,759.00
Vanderburgh	McManus	\$4,568.14
TOTAL		\$143,929.65

The Commission tabled \$110,838.13 in past due claims in the Pruitt case until a more thorough explanation could be obtained from Morgan County officials as to why the claims were not submitted on time. Also, attorney Bowling will report back to the Commission as to what extent counties were notified of the necessity of filing capital claims in a timely fashion.

5. The Commission approved reimbursement for noncapital claims in the following amounts:

Indiana Public Defender Commission-Updated
Recommendations for Reimbursement in Non-capital Cases--December 11, 2011

COUNTY	PERIOD COVERED	TOTAL EXPENSE	ADJUS'T	ADJUS'D EXP
ADAMS	07/01/03-09/30/03	\$28,589.30	\$7,919.24	\$20,670.06
BENTON	07/01/03-09/30/03	\$8,081.96	\$960.00	\$7,121.96
BLACKFORD	07/01/03-09/30/03	\$11,496.50	\$0.00	\$11,496.50
CARROLL	07/01/03-09/30/03	\$26,774.82	\$0.00	\$26,774.82
CLARK	07/01/03-09/30/03	\$90,632.01	\$1,759.84	\$88,872.17
DECATUR	07/01/03-09/30/03	\$27,811.10	\$12,793.11	\$15,017.99
FAYETTE	07/01/03-09/30/03	\$37,820.05	\$0.00	\$37,820.05
FLOYD	07/01/03-09/30/03	\$64,816.35	\$0.00	\$64,816.35
FOUNTAIN	07/01/03-09/30/03	\$14,491.47	\$0.00	\$14,491.47
FULTON	07/01/03-09/30/03	\$23,696.03	\$0.00	\$23,696.03
GREENE	07/01/03-09/30/03	\$46,834.65	\$0.00	\$46,834.65
HANCOCK	07/01/03-09/30/03	\$81,884.26	\$6,399.63	\$75,484.63
HENRY	07/01/03-09/30/03	\$58,790.48	\$78.00	\$58,712.48
JASPER	07/01/03-09/30/03	\$31,149.96	\$5,918.49	\$25,231.47
JAY	07/01/03-09/30/03	\$28,171.86	\$6,783.24	\$21,388.62
JENNINGS	07/01/03-09/30/03	\$22,144.03	\$375.00	\$21,769.03
KNOX	07/01/03-09/30/03	\$103,375.82	\$3,363.51	\$100,012.31
KOSCIUSKO	07/01/03-09/30/03	\$60,974.70	\$0.00	\$60,974.70
LAKE	07/01/03-09/30/03	\$645,826.83	\$0.00	\$645,826.83
LAPORTE	07/01/03-09/30/03	\$88,388.55	\$12,109.23	\$76,279.32
MADISON	07/01/03-09/30/03	\$412,869.79	\$5,731.00	\$407,138.79
MARION	07/01/03-09/30/03	\$1,608,446.08	\$0.00	\$1,608,446.08
MIAMI	07/01/03-09/30/03	\$57,322.52	\$0.00	\$57,322.52
MONROE	07/01/03-09/30/03	\$175,587.00	\$0.00	\$175,587.00
MONTGOMERY	07/01/03-09/30/03	\$47,842.45	\$13,874.31	\$33,968.14
NOBLE	07/01/03-09/30/03	\$49,405.63	\$0.00	\$49,405.63
OHIO	07/01/03-09/30/03	\$10,211.11	\$1,618.48	\$8,592.63
ORANGE	07/01/03-09/30/03	\$11,687.64	\$0.00	\$11,687.64

PARKE	07/01/03-09/30/03	\$14,497.09	\$0.00	\$14,497.09
PERRY	07/01/03-09/30/03	\$12,970.67	\$0.00	\$12,970.67
PULASKI	07/01/03-09/30/03	\$18,443.58	\$6,620.10	\$11,823.48
RUSH	07/01/03-09/30/03	\$41,423.87	\$3,793.67	\$37,630.20
SCOTT	07/01/03-09/30/03	\$43,004.01	\$8,256.77	\$34,747.24
SHELBY	07/01/03-09/30/03	\$60,588.10	\$0.00	\$60,588.10
SPENCER	07/01/03-09/30/03	\$20,031.01	\$0.00	\$20,031.01
STEUBEN	07/01/03-09/30/03	\$63,164.97	\$17,623.03	\$45,541.94
SULLIVAN	07/01/03-09/30/03	\$23,788.28	\$1,053.00	\$22,735.28
SWITZERLAND	07/01/03-09/30/03	\$13,691.39	\$1,870.12	\$11,821.27
VANDERBURGH	07/01/03-09/30/03	\$312,910.83	\$0.00	\$312,910.83
VERMILLION	07/01/03-09/30/03	\$13,649.03	-\$4,051.94	\$17,700.97
VIGO	07/01/03-09/30/03	\$237,560.67	\$35,158.98	\$202,401.69
WARREN	07/01/03-09/30/03	\$3,650.38	\$198.00	\$3,452.38
WASHINGTON	07/01/03-09/30/03	\$54,085.58	\$17,045.72	\$37,039.86
WHITE	07/01/03-09/30/03	\$18,051.97	\$18,051.97	\$0.00
WHITLEY	07/01/03-09/30/03	\$49,427.81	\$5,634.77	\$43,793.04
TOTAL		\$4,876,062.19	\$190,937.27	\$4,685,124.92

Judge Donahue abstained on the Clark County claim.

Given that the current Public Defense Fund balance is inadequate to pay these claims, the Commission suspended payment until the next semiannual deposit into the Fund, which will occur on December 31, 2003. At that time, these claims, along with the suspended noncapital claims from September 4, 2003, will be paid in a prorated fashion.

The Commission tabled the claim from White County pending further discussion (see below).

- Staff attorney Neal Bowling reported to the Commission on his investigation of the public defender system in White County. Specifically, Bowling learned that public defenders are not appointed in a fashion that comports with White County's approved comprehensive plan. Furthermore, Bowling learned that the White County Public Defender Board has not met quarterly as required by statute, and that two board members reported that the board has never met at all. The Commission discussed and debated at some length as to what the Commission's response to this problem should be, and ultimately resolved to draft a letter to the White County Public Defender Board seeking detailed information about prior meetings, and a definite answer as to whether the Board did or did not approve the comprehensive plan that was submitted to the Commission. Chairman Lefstein expressed grave concern that the comprehensive plan was transmitted to the Commission by the judge of the White Superior Court, and suggested that the

Commissioners ought to be particularly concerned about the independence of a county public defender board any time a proposed comprehensive plan is transmitted to the Commission by a court or a judge.

7. The Commission reviewed the draft of the Commission's annual report. Chairman Lefstein indicated that some changes would be made in the report and in the cover letter. Specifically, Chairman Lefstein expressed his belief that the cover letter should point out that Indiana currently ranks forty-sixth (46th) among states in per capita spending on indigent defense. It was agreed that Chairman Lefstein and attorney Bowling would make final modifications to the report and cover letter and provide the Commissioners with copies.
8. Chairman Lefstein reported on the recent study of the Marion County juvenile justice system conducted by the American Bar Association in conjunction with the Children's Law Center. A more comprehensive report is forthcoming from Patricia Pruritz of the ABA.
9. The Commission considered Grant County's proposed comprehensive plan. Chairman Lefstein expressed concern that the plan was transmitted by a Grant Superior Court judge. The Commission resolved that the plan should be approved, subject to verification by attorney Bowling that the Grant County Public Defender Board is actually functioning as contemplated by statute and performing its duties, and was not merely giving passive approval to the actions of the judiciary. Specifically, the Commission wanted to be certain that the problems in White County were not repeated in Grant County.
10. The Commission considered and approved proposed new comprehensive plans from Henry and Noble Counties. Both plans were approved. The Commission resolved that it would need more information in the future about potential problems with a disparity between the compensation of the new chief public defender of Henry County and the Henry County Prosecutor. Attorney Bowling was delegated the task of gathering the salary information.
11. The next Commission meeting was set for Wednesday, March 3, 2004, at 3:00 p.m.

Norman Lefstein, Chairman

Date